

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Inquiry Concerning Deployment of	)	GN Docket No. 18-238
Advanced Telecommunications Capability	)	
to All Americans in a Reasonable and	)	
Timely Fashion	)	

**COMMENTS**



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September 17, 2018

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**I. INTRODUCTION AND SUMMARY**

The American Cable Association (“ACA”) hereby files comments in response to the above-captioned Federal Communications Commission (“Commission”) Notice of Inquiry (“NOI”) commencing the annual inquiry on broadband deployment required under Section 706 of the Telecommunications Act of 1996 (“Section 706”).<sup>1</sup>

As has been the case year-after-year, advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. ACA members

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<sup>1</sup> See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 18-238, Fourteenth Broadband Deployment Report Notice of Inquiry, FCC 18-119 (rel. Aug. 9, 2018); see also 47 U.S.C. § 1302(b).

have contributed to these gains by investing heavily in recent years to deploy high-quality broadband services to both rural and urban areas, and many have undertaken major network expansions and upgrades.<sup>2</sup> In making these investments, ACA member companies and others have drawn confidence from recent efforts of the Commission and Congress to enact policies that streamline and reduce the costs of deployment. Where a business case for private investment alone still cannot be made, the Commission's Universal Service Fund ("USF") programs and programs administered by the United States Department of Agriculture Rural Utilities Service ("RUS") have driven new deployments. ACA finds it reasonable to conclude that such policies and initiatives are contributing to the reasonable and timely deployment of broadband to all Americans. Even so, ACA encourages the Commission to redouble its efforts to minimize regulatory burdens and target available universal service funds to unserved areas.

## **II. ACA MEMBERS CONTINUE TO DEPLOY BROADBAND ROBUSTLY**

ACA represents approximately 700 small and medium-sized fixed broadband service providers, which together pass some 18 million households and serve almost 7 million. Over the past five years, ACA members have invested more than \$10 billion to upgrade and expand their networks, in both rural areas and as overbuilders bringing competition to urban areas, and they continue to spend about \$1 billion each year to meet the ever growing demands of their subscribers for real-time, high-speed access to

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<sup>2</sup> See ACA Comments on Fixed Broadband Competition, GN Docket No. 18-231 (filed Aug. 17, 2018) (ACA Fixed Broadband Competition Comments).

the Internet and other IP-based services.<sup>3</sup> Below are just a few examples of how these investments have borne fruit in 2018 alone.

- In August, Atlantic Broadband vastly increased broadband speeds for its Miami Beach, Florida, customers at every service tier, at no additional cost. The download speed available to subscribers of the entry-level “Starter” package increased from 12 megabits per second (“Mbps”) to 25 Mbps.<sup>4</sup> Atlantic Broadband announced similar upgrades for its Aiken, South Carolina, customers in the month prior.<sup>5</sup>
- Vast Broadband announced in July that it would be expanding its 1 gigabit per second (“Gbps”) footprint into the Black Hills region of South Dakota.<sup>6</sup>
- In June, Vyve Broadband announced its launch of 300 Mbps service to 90 percent of largely rural customer base and its plans to extend 1 Gbps service to over 70 percent, “further closing the broadband availability gap in its rural territories.”<sup>7</sup>
- Ohio-based MCTV, which serves about 50,000 customers, announced in June it would be deploying fiber-to-the-home infrastructure in three new communities.<sup>8</sup>

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<sup>3</sup> See Written Statement of Matthew M. Polka, President and CEO, American Cable Association, Before the House Energy and Commerce Committee, Subcommittee on Communications and Technology, “Closing the Digital Divide: Broadband Infrastructure Solutions” at 2, January 30, 2018, *available at* <https://docs.house.gov/meetings/IF/IF16/20180130/106810/HHRG-115-IF16-Wstate-PolkaM-20180130-U5052.pdf> (Polka Testimony).

<sup>4</sup> See Atlantic Broadband, Atlantic Broadband Offers Additional Speed Upgrades at No Additional Cost for Florida Residential Customers, Aug. 7, 2018, [https://atlanticbb.com/sites/default/files/Florida%20Speed%20Increases\\_Final.pdf](https://atlanticbb.com/sites/default/files/Florida%20Speed%20Increases_Final.pdf).

<sup>5</sup> See Dede Biles, Aiken Standard, “Atlantic Broadband increases residential internet speeds in Aiken area,” July 10, 2018, [https://www.aikenstandard.com/news/atlantic-broadband-increases-residential-internet-speeds-in-aiken-area/article\\_2e84192a-83c4-11e8-944e-4f87a36cfcca.html](https://www.aikenstandard.com/news/atlantic-broadband-increases-residential-internet-speeds-in-aiken-area/article_2e84192a-83c4-11e8-944e-4f87a36cfcca.html).

<sup>6</sup> See Vast Broadband, Vast 1 Gig to Launch in Black Hills Region, July 26, 2018, <https://www.vastbroadband.com/2018/07/vast-1-gig-launch-black-hills-region/>.

<sup>7</sup> See Vyve Broadband, Vyve Broadband Set to Expand Gigabit Service Coverage; Launches 300 Megabit-per-second Speeds to 90% of Customers, June 25, 2018, [https://www.vyvebroadband.com/wp-content/uploads/300M-Launch\\_Gig-Expansion-Coming\\_Press-Release\\_062518.pdf](https://www.vyvebroadband.com/wp-content/uploads/300M-Launch_Gig-Expansion-Coming_Press-Release_062518.pdf).

<sup>8</sup> See MCTV, MCTV To Expand Service in Three New Areas, June 20, 2018, <https://www.mctvohio.com/mctv-to-expand-service-in-three-new-areas>.

- TDS Telecom announced in May its plans to construct a fiber-to-the-home network in DeForest, Wisconsin.<sup>9</sup>
- In March, WOW! announced that its most recent DOCSIS 3.1 deployments had resulted in 95 percent of its 730,000 customers now having access to 1 Gbps service.<sup>10</sup>
- Shentel increased broadband speeds for customers throughout its Virginia, West Virginia and Maryland service territory in February. Subscribers to the 15 Mbps tier saw their speed rise to 25 Mbps.<sup>11</sup>
- In January, Cable ONE announced the availability of 1 Gbps service across more than 95 percent of its legacy footprint.<sup>12</sup> Since then the company has “doubled down on faster internet speeds” by announcing plans to invest more than \$60 million towards expanding its 1 Gbps footprint within newly acquired network territory.<sup>13</sup>
- Earlier this year, GCI launched 1 Gbps service in the Alaska communities of Kenai, Soldotna and Seward.<sup>14</sup>

These investments are allowing many customers to experience 25 Mbps broadband service for the first time,<sup>15</sup> while also enhancing the delivery of speeds far in excess of that standard in markets across the country.

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<sup>9</sup> See TDS Telecom, TDS Telecom announces plans to expand fiber-optic network to DeForest, Wis., May 29, 2018, <https://tdstelecom.com/about/news/categories/tds/expanding-deforest-wisconsin.html>.

<sup>10</sup> See Jeff Baumgartner, Multichannel News, WOW! Broadens 1 Gig Rollout, Mar. 6, 2018, <https://www.multichannel.com/news/wow-broadens-1-gig-rollout-418512>.

<sup>11</sup> See Shentel, Shentel increases speed to next tier for Internet customers, Mar. 13, 2018, <https://www.shentel.com/news/2018/march/speed%20roll>.

<sup>12</sup> See Jeff Baumgartner, Multichannel News, Cable One Touts Gigabit Deployment Milestone, Jan. 17, 2018, <https://www.multichannel.com/news/cable-one-touts-gigabit-deployment-milestone-417566>.

<sup>13</sup> See Bevin Fletcher, ECN, Cable One Gearing up for Gigabit Launch in New Wave Footprint, Mar. 27, 2018, <https://www.ecnmag.com/news/2018/03/cable-one-gearing-gigabit-launch-newwave-footprint>.

<sup>14</sup> See Denise Nyren, Peninsula Clarion, “Voices of Alaska: GCI invests in the peninsula,” Aug. 13, 2018, <http://www.peninsulaclarion.com/opinion/2018-08-13/voices-alaska-gci-invests-peninsula>.

<sup>15</sup> See NOI, ¶ 8 (proposing to retain a 25 Mbps download/3 Mbps upload speed benchmark as the measure to assess whether a fixed broadband service provides “advanced telecommunications capability”).

### **III. COMMISSION EFFORTS TO CLOSE THE DIGITAL DIVIDE ARE HAVING A POSTIVE IMPACT ON DEPLOYMENT**

In the 2018 Broadband Deployment Report,<sup>16</sup> the Commission's focused its Section 706 inquiry on whether sufficient progress is being made in deploying broadband to all Americans. The Commission found that it was, based in part on its determination that recently enacted policies were having a positive effect on deployment that could not yet be discerned in the data underlying the report.<sup>17</sup> The NOI suggests that the Commission's policymaking since then may be cited as further support for reaching a similar finding the next report.<sup>18</sup>

ACA believes it appropriate that the Commission's Section 706 inquiry incorporate judgments about the impact of broader policies and initiatives on deployment progress. Indeed, the Commission's pursuit of a regulatory agenda that minimizes the costs and burdens of deployment is a major factor that has driven and continues to drive ACA members' substantial broadband investments. The Commission's decision to restore a light-touch regulatory framework for broadband Internet access service has relieved ACA members from substantial legal risk and uncertainty and enabled funds to be diverted from compliance to capital investment.<sup>19</sup> More recently, the Commission adopted major reforms of its pole attachment rules that

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<sup>16</sup> See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, 2018 Broadband Deployment Report, 33 FCC Rcd 1660 (2018).

<sup>17</sup> See *id.*, ¶¶ 94-98.

<sup>18</sup> See NOI, ¶¶ 23-26 (seeking comment on the impact of Commission actions since the issuance of the 2018 Broadband Deployment Report on closing the digital divide).

<sup>19</sup> See, e.g., Letter From Michael Guite, Chairman and CEO, VTel, to U.S. Senator Patrick Leahy, dated May 25, 2018, available at <https://docs.house.gov/meetings/IF/IF16/20180725/108599/HHRG-115-IF16-Wstate-PaiA-20180725-U11.pdf> (last visited Sept. 17, 2018). VTel is an ACA member company.

should make it easier and less costly for providers to obtain access to critical infrastructure necessary to deploy broadband, including when seeking to expand into new territory.<sup>20</sup> Another powerful stimulant for broadband deployment is the 2018 tax law, which ACA has estimated will make it economical to deploy high-speed broadband to over 400,000 households unserved today.<sup>21</sup>

In addition, the Commission has worked to strengthen its USF programs to ensure that broadband subsidies more effectively reach those areas that remain too costly to serve even when deployment barriers are removed.<sup>22</sup> ACA has estimated that the Commission's Connect America Fund programs alone will result in new or upgraded broadband deployment of at least 10/1 service to at least 2 million homes by 2020.<sup>23</sup> The Commission may reasonably predict that, working together, these substantial, multi-faceted efforts to remove barriers to deployment and to fund it directly where necessary will contribute to the reasonable and timely deployment of broadband to all Americans.

Yet as the Commission acknowledged in the 2018 Broadband Deployment Report, "[its] work to close the digital divide is not yet complete."<sup>24</sup> For ACA members, remaining regulatory barriers and burdens continue to deter investment by consuming

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<sup>20</sup> See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Report and Order and Declaratory Ruling, WC Docket No. 17-84, FCC 18-111 (rel. Aug. 3, 2018).

<sup>21</sup> See Polka Testimony at 9-10; see also Tax Cuts and Jobs Act of 2017, Pub. L. 115-97 (2017).

<sup>22</sup> See e.g., American Cable Association, ACA: FCC's First Reverse CAF Auction a Win for Broadband Consumers, Aug. 29, 2018, <http://www.americancable.org/aca-fccs-first-caf-reverse-auction-a-major-win-for-broadband-consumers>.

<sup>23</sup> See Polka Testimony at 10; see also ACA Comments to RUS on Broadband e-Connectivity Pilot Program, Docket No. RUS-18-TELECOM-004 at 4-6 (listing FCC universal service programs that will soon provide support for broadband deployment in unserved and high-cost areas through the country.)

<sup>24</sup> See 2018 Broadband Deployment Report, ¶ 98.



funds that might otherwise be available for network expansions and upgrades, including in rural areas. As ACA explained in its comments on fixed broadband competition, the Commission can encourage more deployment from ACA members and others by taking steps to further streamline infrastructure access; pare back excessive regulatory burdens; rein in video programming costs; and ensure against subsidized overbuilds.<sup>25</sup>

#### **IV. FURTHER RECOMMENDATIONS FOR THE NEXT BROADBAND DEPLOYMENT REPORT**

Finally, ACA provides comment on other issues relevant to the Commission's development of the next Broadband Deployment Report.

##### **A. Progress in Deployment**

As indicated above, ACA agrees with the Commission that the phrasing of Section 706 supports a "progress-based" approach to its annual inquiry on broadband deployment.<sup>26</sup> Whether broadband "is being deployed to all Americans in a reasonable and timely fashion" is clearly a question of progress over time, one that reasonably incorporates some prediction of how current policies will affect future deployment.

##### **B. Defining "Advanced Telecommunications Capability"**

ACA supports the Commission's proposal to retain a "25/3" speed benchmark as the measure for determining whether a fixed broadband service provides "advanced telecommunications capability."<sup>27</sup> While competition and consumer demand are driving the industry to push far beyond this standard in markets across the country, it remains true that "25/3" fixed broadband service "enables users to originate and receive high-

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<sup>25</sup> See ACA Fixed Broadband Competition Comments at 9-15

<sup>26</sup> See NOI, ¶ 6.

<sup>27</sup> See *id.*, ¶ 8.

quality voice, data, graphics and video telecommunications.”<sup>28</sup> Moreover, there is prudence in maintaining a stable benchmark of “advanced telecommunications capability” over the course of several years so that deployment progress can be measured consistently from year to year.

In addition, ACA encourages the Commission to continue to report fixed broadband deployment estimates at speeds other than the current benchmark, including 10/1. While 10/1 fixed broadband service does not meet the Commission’s standard for “advanced telecommunications capability,” it can support a broad array of popular online activities that provide considerable value to users.<sup>29</sup> Continuing to report on deployment at this speed tier will thus allow the Commission to present an appropriately nuanced picture of the broadband deployment landscape.

### **C. Use of Form 477 Data**

For its coming report, the Commission proposes once again to rely on Form 477 data as its primary data source for measuring fixed broadband deployment.<sup>30</sup> ACA agrees that Form 477 data reported at the census block level provides a sound basis for the Commission’s analyses and findings under Section 706 regarding the progress of fixed broadband deployment to all Americans. Augmenting the collection to elicit data at a sub-census block level would vastly increase providers’ already substantial

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<sup>28</sup> See 47 U.S.C. § 1302(d)(1); see also Federal Communications Commission, Broadband Speed Guide, <https://www.fcc.gov/reports-research/guides/broadband-speed-guide> (last visited Sept. 17, 2018) (FCC Broadband Speed Guide) (suggesting that “25/3” broadband service can support such advanced broadband uses as “Streaming Ultra HD 4K Video”).

<sup>29</sup> See FCC Broadband Speed Guide.

<sup>30</sup> See NOI, ¶ 16. The Commission proposes to rely on State Broadband Initiative deployment data for years preceding 2014. See *id.*

collection and reporting burdens, which would be particularly daunting for smaller providers, and should not be done without a clear showing that the benefits would outweigh these costs in the areas where more granular data is deemed needed.<sup>31</sup>

#### **D. Disaster Affected Areas**

The Commission's determinations and findings under Section 706 regarding the state of broadband deployment must reasonably account for the destructive impact of hurricanes and other weather emergencies on broadband infrastructure in affected regions. A loss of broadband infrastructure in an area as the direct result of natural disaster sheds no light on whether efforts to deploy broadband to the area have been reasonable or timely, so including such areas within calculations of overall deployment would only skew the results. The Commission should exclude storm-damaged regions from its overall deployment findings as it did in its previous report,<sup>32</sup> while reporting separately on progress to restore broadband availability in such regions. This approach will best allow the Commission to measure consistently whether "reasonable and timely" deployment is occurring year to year. At the very least, any determination whether deployment to a disaster-affected area is "reasonable and timely" must account for the

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<sup>31</sup> See ACA Comments on Modernizing the Form 477 Data Collection, WC Docket No. 11-10, (filed Oct. 24, 2017). As ACA noted in recent comments filed with the National Telecommunications and Information Administration (NTIA), "the government lacks [a record of] the precise location of all households in the US," which means "there is no way to determine all locations that are unserved" regardless of how granularly providers report on their deployments. See ACA Comments to NTIA on Improving the Quality and Accuracy of Broadband Deployment Data, Docket No. 180427421-8421-01 (filed July 16, 2018).

<sup>32</sup> See 2018 Broadband Deployment Report, ¶ 44.

tireless efforts undertaken to reconstruct damaged facilities and restore service in the wake of major disasters.<sup>33</sup>

### **E. Quantifying Broadband Progress**

To further support its analysis of broadband deployment progress, ACA recommends that the Commission include three-to-five-year deployment projections in its next report. The projections could extrapolate from current deployment and household growth trends, while also incorporating the Commission's knowledge of areas where USF grantees have committed or are expected to deploy broadband within certain timeframes.<sup>34</sup> Quantifying these projections in its next report would allow the Commission to further substantiate the progress that is occurring, while also providing a clearer sense of the number or percentage of census blocks and households expected still to lack broadband in coming years. To give the most complete picture possible, the Commission should make projections at every speed level for which it provides deployment estimates in its report.

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<sup>33</sup> See, e.g., Remarks of Chairman Ajit Pai at the American Cable Association Annual Summit, March 23, 2018, <https://docs.fcc.gov/public/attachments/DOC-349825A1.pdf> (giving a first-hand account of the "incredible efforts" of ACA member Liberty Puerto Rico to rebuild its "wiped out" network and restore service in the wake of Hurricane Maria).

<sup>34</sup> The Commission could also seek information from RUS about areas where beneficiaries of its programs are expected to deploy broadband within particular timeframes.

## V. CONCLUSION

ACA appreciates the opportunity to comment on the NOI, and encourages the Commission to take its views into account as it develops its next report on broadband deployment under Section 706.

Respectfully submitted,



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